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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/806,800	06/25/2001	Adriaan Retief Swanepoel	0182.00001	6013

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EXAMINER

BALSIS, SHAY L

ART UNIT	PAPER NUMBER
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1744

DATE MAILED: 08/08/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/806,800

Applicant(s)

SWANEPOEL, ADRIAAN RETIEF

Examiner

Shay L. Balsis

Art Unit

1744

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 26 May 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-10,13 and 14 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-10,13 and 14 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 25 June 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Applicant's argument presented in the appeal brief dated 5/26/06 have required further action and therefore, the finality of the rejection of the last Office action is withdrawn. However, this Office action is made final, since limitations were added to the claim which required further consideration.

Claim Rejections - 35 USC § 112

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 1-10 and 13-14 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. The amended claims include the limitation of a "beam blade". This is considered new matter and requires further consideration. The applicant's arguments in the appeal brief, have led the examiner to reconsidered the newly added limitation. Throughout the specification it is noted that the terminology "beam" is supported however "beam blade" is not. The applicant's argument imply that the new limitation of "beam blade" gives structure to the claim. There is no discussion in the original specification or the claims as to what a "beam blade" is or how it is different than any other wiper.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-5, 7-10 and 13-14 are rejected under 35 U.S.C. 102(b) as being anticipated by Wittwer (USPN 3899800) as evidenced by Thompson (USPN 4587686).

With regards to claims 1, 2, 13 and 14, Wittwer teaches a wiper comprising a force-applying member (12) connected to the center backbone at two spaced apart points (31, 32). The backbone or backing strip is a formed from a single, unitary, flexible material that is precurved or prebowed in a direction substantially parallel to the curvature of the windshield (col. 2, lines 57-59). Wittwer does not refer to the backbone as a beam, however, Thompson teaches a wiper blade with a beam (96; col. 10, lines 13-14) that could be used on a tournament style wiper (figure 8, col. 26-28). The beam of Thompson functions in the same manner as Wittwer and therefore, as evidenced by Thompson a beam and a backing strip are considered the equivalent terminology in the art. Wittwer teaches a superstructure with four pairs of equally spaced apart claws (30, 31, 32 and 33) that slidably engage with the backing strip or beam (36) by means of claws with pin type structure that engage around the outer exposed longitudinal slot edge portions of the flexible backing strip. The remote claws (30, 33) are at a location 1/8 the length of the wiper blade element in from the ends. The four points of pressure being applied to the backing strip or beam at equally spaced apart locations between the remote pressure points beneath the claws (30, 33). It can be determined that the spacing between the two points (31,

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32) is $\frac{1}{4}$ the length of the wiper blade and the ratio of spacing to the total length is $\frac{1}{4}$ (see figure below), therefore, $S=0.25*L$ and $R=0.25$ which falls in the ranges claimed by the applicant.

With regards to claim 3, the preferred spacing distance S_p between the spaced apart points is *about* $S_p=0.363*L-0.000146*L^2$.

With regards to claim 4, the preferred ratio R_p is *about* $R_p=0.363-0.000146*L$.

With regards to claim 5, the force applying member is connected to the backing strip or beam in such a manner as to permit relative longitudinal displacement between the force applying member and the backing strip or beam (col. 3, lines 7-30).

With regards to claim 7, the curved backing strip or beam has a constant thickness along its length (figures 1-5 show the same thickness throughout).

With regards to claim 8, the curved backing strip or beam has a constant width along its length since the yokes do not change. The same clips are used to connect all four points on the backing strip or beam.

With regards to claim 9 and 10, the backing strip or beam has a free form curvature in a plane (along the x-direction without contact with the window) as well as compound curvature (when in contact with the window, the blade in the x-direction is curved taking the shape of the window and in the y-direction when the blade is in motion the ends of the blade could be curved upward or downward of the middle depending on the direction of the blade movement).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Wittwer (USPN 3899800) as applied to claim 1 above and further in view of Appel (USPN 3192551).

Wittwer teaches all the essential elements of the claimed invention however fails to teach that the curved backing strip or beam has a varying width and thickness. Appel teaches a curved backing strip comprising a varying width and thickness. It would have been obvious to modify the invention of Wittwer to have a backing strip or beam that varies in width and thickness as taught by Appel to provide substantially uniform pressure along the length of contact between the flexible rubber wiping blade and the windshield. Additionally, it would accommodate a correspondingly smaller radius of curvature while retaining appropriate width for resisting lateral drag loads without undue distortion (col. 1, lines 34-48).

The applicant's added the terminology of "beam blade" to the claimed. The specification does not clearly disclose what the limitations of a beam blade are or how it is different than any other wiper blade. Even in the arguments, the applicant fails to specify exactly what the difference between a "beam blade" and a "tournament-style blade" are. The applicant provides the definition of a beam however that definition holds true for the prior art blades. The blades of the prior art have one dimension large compared with the other dimensions, whose function is to carry lateral loads and bending movements. The applicant's arguments lead one to believe that "beam blade" gives structure to the claim and this structure is not supported in the specification. The specification only discloses information about "beams".

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Shay L. Balsis whose telephone number is 571-272-1268. The examiner can normally be reached on 7:30-5:00 M-Th, alternating F.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gladys Corcoran can be reached on 571-272-1214. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Shulin

Slb
8/2/06


GLADYS JP CORCORAN
SUPERVISORY PATENT EXAMINER